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Attorneys for Defendant

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BECKY BERNSHAUSEN,

Plaintiff

v.

KILOLO KIJAKAZI,
Acting Commissioner of Social Security,

Defendant

Case No. 2:21-cv-01520-DMC

**STIPULATION AND
ORDER FOR AWARD OF ATTORNEY'S
FEES UNDER THE EQUAL ACCESS TO
JUSTICE ACT (EAJA)**

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff shall be awarded attorney's fees and expenses under the Equal Access to Justice Act (EAJA), 28 U.S.C. sec. 2412(d), in the amount of four thousand six hundred seventy-seven dollars and twenty cents (\$4,677.20) and no costs under 28 U.S.C. § 1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920; 2412(d). Accordingly, should this Court award fees and expenses under EAJA pursuant to this stipulation, Plaintiff's motion for attorney fees (ECF 24) would be moot.

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of any assignment of EAJA fees by Plaintiff to his counsel Jesse Kaplan (Counsel). Pursuant

1 to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor
2 the assignment will depend on whether the fees are subject to any offset allowed under the United
3 States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the
4 government will determine whether they are subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
6 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
7 and costs to be made directly to Counsel pursuant to an assignment executed by Plaintiff. Any
8 payments made shall be delivered to Counsel.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
10 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
11 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
12 and all claims that Plaintiff and/or Counsel, including his firm, may have relating to EAJA attorney
13 fees in connection with this action.

14 This award is without prejudice to the rights of Counsel to seek Social Security Act attorney
15 fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA .

16 Respectfully submitted,

17 Dated: November 3, 2022

18 By: /s/ Jesse Kaplan*
19 JESSE KAPLAN
20 *By email authorization on 11/1/22
21 Attorney for Plaintiff

22 Dated: November 3, 2022

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United States Attorney

23 By: /s/ Marcelo Illarmo
24 MARCELO ILLARMO
25 Special Assistant United States Attorney
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2 Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act
3 Fees, Costs, and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$4,677.20 as
4 authorized by 28 U.S.C. § 2412, and no costs as authorized by 28 U.S.C. § 1920, be awarded subject
5 to the terms of the Stipulation. Furthermore, Plaintiff's motion for attorney fees (ECF 24) is denied
6 as moot.

7 Dated: November 7, 2022



DENNIS M. COTA
UNITED STATES MAGISTRATE JUDGE